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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,119	06/30/2005	Steve George Koch	01-0063/US1 (8470-0089NPB)	4912
29293 7590 07/24/2009 FREUDENBERG-NOK GENERAL PARTNERSHIP LEGAL DEPARTMENT 47690 EAST ANCHOR COURT PLYMOUTH, MI 48170-2455				
EXAMINER				
CANTELMO, GREGG				
ART UNIT		PAPER NUMBER		
1795				
NOTIFICATION DATE		DELIVERY MODE		
07/24/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

fngp@hdp.com  
cxc@fngp.com  
mlp@fngp.com

### Office Action Summary

**Application No.**

10/541,119

**Applicant(s)**

KOCH ET AL.

**Examiner**

Gregg Cantelmo

**Art Unit**

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

***Response to Amendment***

1. In response to the amendment received March 24, 2009:
  - a. Claims 1-18 are pending;
  - b. The prior art rejections of record are withdrawn in favor of the amendments to the claims.

***Election/Restrictions***

2. Newly submitted claim 14 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the original product and method of making did not require molding as recited in the new method claim 14 and the search for the methodology of claim 14 is materially divergent from the original claimed subject matter. Furthermore the product does not include any such feature (nor did the original method claim). Thus while the original method and product were not restricted, subsequent dependent claims reciting specific method steps not present in the original claims and which raise distinction provide grounds for withdrawing these claims based on the original claim presentation

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 12 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 4-8, 11-13 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0118412 (Orsbon).

Orsbon discloses an apparatus for use in sealing a perimeter of an individual cell of a fuel cell assembly comprising: gaskets including opposed sides defining a perimeter seal for a reactant flow field of the individual cell defined by a separator plate of the fuel cell assembly; and with the gaskets including a plurality of generally rigid bridges extending between and fixed to the opposed sides and extending across flow channels in the separator plate defining the reactant flow field (Figs. 1-8 as applied to claims 1 and 6). The fuel cell includes an MEA although the MEA is not shown in the figures (para. 26 as applied to claim 6). The assembly shown in the figures includes a plurality of gaskets having bridges extending across the gaskets and each of the gaskets having bridges are formed transverse to one another. Thus one of the gaskets would be oriented parallel to the flow channels and the other would be oriented transversely across the channels.

The gaskets will mate with and seal off around the gas diffusion mesh 60 (as applied to claim 2).

The bridges are integral with each gasket (Figs. as applied to claims 4 and 7-8).

The bridges include at least two bridges (Figs. as applied to claim 5).

The method of assembling the array includes providing plural gasket layers having channels (and thus generally rigid bridges between the channels), orienting each gasket with channels relative to other fluid flow channel gaskets wherein the bridge extends across the channels and compressing the gaskets against one another including the other gaskets with flow channels or as solid separating plates (Fig. 1 as applied to claim 11).

The bridges remain in the same plane as their respective gasket and thus upon compression are in a plane located outside respective flow channels of the adjacent plates (Fig. 1 as applied to claim 12).

Gas diffusion layers 60 are secured to the compressed array (Fig. 1 as applied to claim 13).

The bridges are integral with the gasket (Figs. 1-8 as applied to claim 16).

The assembly shown in the figures includes a plurality of gaskets having bridges extending across the gaskets and each of the gaskets having bridges are formed transverse to one another. Thus one of the gaskets would be oriented parallel to the flow channels and the other would be oriented transversely across the channels (as applied to claims 15 and 17-18).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 3 and 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Orsbon as applied to claims 1 and 6 above, and further in view of either Koch, DE '395 or JP '640, all of record.

Orsbon does not teach of the gaskets being a carrier layer and an elastomeric seal layer mounted thereto. Koch teaches that it is known in the art to design seals which comprise a carrier 202 and an elastomeric layer mounted thereto (abstract and Figs. 2-4). DE '395 teaches that it is known in the art to design seals which comprise a carrier and an elastomeric layer mounted thereto (abstract and Figs 3 and 4). JP '640 teaches that it is known in the art to design seals which comprise a carrier and an elastomeric layer mounted thereto (abstract and Figs). Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Orsbon by using the composite structure of either Koch, DE '395 or JP '640 since it would have provided a sealing material having improved mechanical and sealing properties.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregg Cantelmo whose telephone number is 571-272-1283. The examiner can normally be reached on Monday to Thursday, 8:30-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregg Cantelmo/  
Primary Examiner, Art Unit 1795